

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

July 13, 2011
9:00 a.m.

Members present: Chairman Gilbert, Vice Chairman Christie, Councilors Butler, Densberger, Gosse, Henderson, Hinds, Lyons, Rawnsley, and Varotsis

Members absent: Councilors Barrett, Dupee, Harrington, Hoyt, and Rastallis

Chairman Gilbert called the meeting to order at 9:00 a.m.

1. Approval of Minutes of June 8, 2011 Meeting

- ***Motion made by Councilor Varotsis to approve the minutes, second by Councilor Butler. Motion passed unanimously with Councilor Henderson abstaining.***

2. Status of Appeals

Peter Demas, DES Attorney, introduced the new Appeals Clerk, Paula Scott, and presented an update on the following appeals:

I. New Appeals

Docket No. 11-08 WC David Riley, et al.

Re: Lake Waukegan Final Operating Level

Presiding Officer: Not Assigned

Recused: Carol Henderson

Status: Appeal received on May 27, 2011. Council to vote on July 13, 2011 on whether to accept appeal. Motion to Intervene and Consolidate filed on behalf of Waukegan property owners on June 16, 2011. Objection filed by Appellant on June 23, 2011.

- ***Councilor Rawnsley made a motion to accept the 11-08 WC appeal, second by Councilor Butler. No discussion. Motion passed unanimously.***

State has agreed to consolidate and intervene, however, the appellant objected.

- ***Councilor Rawnsley made a motion to deny consolidation of Docket 11-08 WC and 10-09 WC based on the decision underlying 10-09 WC now being a moot point, second by Councilor Densberger. Discussion was held. Motion passed unanimously.***
- ***Councilor Rawnsley made a motion to grant the petition to intervene to the appropriate parties, making it clear that we're not making a decision with respect to all petitions that were just received, they will be taken up in the future after review. (These are the Motions to Intervene and Consolidate filed on June 17, 2011 by Biron Bedard.) Second by Councilor Densberger. No discussion. Motion passed unanimously.***

- ***Councilor Rawnsley made a motion to dismiss Docket No. 10-09 WC Lake Waukegan conditioned on giving the appellant 30 days to plead reasons as to why the appeal shouldn't be dismissed as moot prior to that decision becoming effective, second by Nancy Christie. No discussion. Motion passed unanimously.***

Presiding officer to be Councilor Rawnsley.

II. Previously pending cases.

Docket No. 08-54 WC - Loretta Simonds

RE: 8/8/08 Decision on Request for Reconsideration

Presiding Officer: Christopher Rawnsley

Status: A Pre Hearing Conference(PHC) is scheduled for July 19, 2011 at 9 a.m. Notice was issued on June 15, 2011.

Docket Nos. 08-57 & 08-59 WC - Eric W. Waleryszak, Brian T. and Adela J. Griset Appeal

RE: Notice and Decision on the Determination of Lake Level issued by DES on 9/29/08

Presiding Officer: Christopher Rawnsley

Status: A PHC is scheduled for July 19, 2011 at 10:00 a.m. Notice was issued on June 15, 2011.

Docket No. 09-05 WC - North Country Alliance for Balanced Change (Dalton Valley Drag)

RE: 12/12/08 Alteration of Terrain Permit WPS 8289 for Dalton Valley Drag

Presiding Officer: Christopher Rawnsley

Recused: Nancy Christie

Status: Status request letter sent on June 15, 2011. First permit was granted and is valid.

Email response received from DES stated that the new application for a permit filed by owner and was denied. DES has granted applicants' request to amend.

- ***Councilor Butler made a motion to dismiss 09-05 WC, second by Councilor Lyons. Discussion held. No ayes, all opposed. Motion dies.***
- ***Councilor Rawnsley made a motion to move ahead to schedule hearing and give 30 days to appellants to withdraw or not, second by Councilor Varotsis. Motion passed unanimously.***

Docket No. 09-14 WC - Andrew and Karen Goldstein

RE: 3/17/09 Administrative Order No. 09-006 WD

Presiding Officer: Christopher Rawnsley

Status: The parties have reached a settlement agreement. The May status report indicated that "A withdrawal will be filed soon" but the record contains no correspondence after 10/29/10. Counsel for the Appellants advised that a withdrawal was likely before the 7/13 meeting, but no withdrawal has been filed.

Docket No. 09-34 WC – Ashuelot Pond Association

RE: 8/28/09 Notice of Decision on Determination of Lake Level for Ashuelot Pond Dam Village District

Presiding Officer: Christopher Rawnsley

Status: A PHC was held on March 29, 2011 at 10:00 a.m. A hearing is scheduled for 7/13/11.

Docket No. 10-09 WC – Lake Waukewan

RE: Notice of Decision, Interim Operating Level issued by DES on 4/12/10

Presiding Officer: Christopher Rawnsley

Status: A hearing is scheduled for July 13, 2011. Continuance of the 7/13 hearing is appropriate. Notice of new hearing date to issue thereafter.

Docket No. 10-25 WC – Robert Van Dyke and Van Dyke Construction, Inc.

RE: October 25, 2010 Administrative Order No. 10-042 WD

Presiding Officer: Steve Densberger (assigned by AGO).

Recused: Deborah Hinds

Status: The Council accepted the appeal on March 9, 2011. A PHC must be scheduled now that a PO has been assigned. Notice will issue when date is selected by PO for sometime in October.

Docket No. 11-05 WC – Town of Hooksett and Hooksett Sewer Commission

RE: 3/21/11 Administrative Order, Administrative Order No. 11-010 WD

Presiding Officer: Not Assigned

Recused: Christopher Rawnsley

Status: Appeal received on 4/20/11. On May 11, 2011 the Council voted unanimously to accept appeal. No action required until requested by the parties.

III. Decision and Orders that need to be written, finalized and issued.

Docket No. 04-18 WC - Thaddeus Dymon

RE: Denial of a Request for Waiver of Env-Ws 386.56(h)(12), (14), (18)

Presiding Officer: Joel Harrington

Status: A Decision and Order is currently being drafted. (Template Dismissal Order to be provided to Chairman Gilbert).

Docket No. 08-29 WC – Silver Lake Association

Re: 4/29/11 Decision and Order Dismissing Appeal

Presiding Officer: Stephen Densberger

Status: Motion for Rehearing filed on May 24, 2011. Council to vote on whether to adopt Decision and Order denying rehearing.

- ***Councilor Rawnsley moved to accept the order as written, second by Councilor Butler. No discussion. Motion passed unanimously.***

Docket No. 09-24 WC – Lake Sunapee Protective Association

RE: 4/16/09 Alteration of Terrain Permit WPS-8382

Presiding Officer: Stephen Densberger

Recused Members: Carol Henderson; Johanna Lyons; and Nancy Christie

Status: A decision and order is currently being drafted.

Docket No. 11-01 WC – Jean Gagnon Sr.

RE: Site Specific Application #06070 -01 for Terra Firma Real Estate, Brown Hill Rd Phase III

Presiding Officer: Not Assigned

Status: Order to be provided by Chairman Gilbert for issuance. (Appeal dismissed as untimely.)

3. Rulemaking Proposal for Env-Wq 1708.10 and 1708.12

Gretchen Hamel and Gregg Comstock

Final proposal of the rules, after the public comment period, were distributed to the Council. Councilor Christie thanked them for their work on these rules and for incorporating some of the suggestions provided. There is no legal requirement of the Council in regards to the rules going forward.

4. Other Business

Chairman Gilbert

Water Sustainability Commission discussed sustainability and what a sustainable management system might have in terms of characteristics. Identify key challenges to manage water in the future, for example - thinking in watershed regions as opposed to local municipalities. Working towards a greater sense of collective accountabilities among citizens of the state for protecting the state resource as opposed to thinking about it as 'my town's water' or 'my water and my well'. There is a need to recognize the interconnections. Next steps involve trying to develop model for how water could be managed in the state. Also to meet with other chairs of water related commissions in the state and their findings. Followed by discussion of the state's demography and how the state is growing and changing and implications to water use and water demand. Moving to start a public process – with a focus to the discussion. Put out a vision, a working hypothesis with questions, and ask for responses.

Jim Gallagher reported we have adjusted to new budget. Steve Couture has moved from the Rivers Management Program to the Coastal Program. Jacquie Colburn will now head both Rivers and Lakes Management Programs with some part time assistance. Adjustments have been made across the whole department. We were able to keep most positions with the hard work by Director Stewart, the Commissioner, our CFO and the Human Resources Dept. Councilor Hinds asked about the new rules which took affect in April and why not merged with old rules? Shoreland is also being worked on with new changes to CSPA and getting them up on website. She asked when they will be up on the website. Jim will check on both of these.

Nancy Christie announced August will be her last meeting as they are retiring to Arizona. She thanked the council and shared her appreciation for their work.

5. Next Meeting

Next meeting will be August 10, 2011 at 9 a.m.

6. Adjournment

- ***Councilor Varotsis made a motion to adjourn, second by Councilor Gosse. Motion passed unanimously.***

Meeting was adjourned at 9:46.